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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**THIRD APPELLATE DISTRICT**

**(Yolo)**

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THE PEOPLE,

Plaintiff and Respondent,

v.

DARRELL LEE HAMPSMIRE,

Defendant and Appellant.

C059044

(Super. Ct. Nos.  
07-3046, 06-6725/07-7034)

On November 8, 2006, defendant Darrell Lee Hampsmire and his estranged wife argued. She told defendant to leave; he refused. She attempted to call the police, and defendant took the phone from her hands and unplugged it. Defendant then pushed the victim to the ground. While on her back, defendant put his forearm against the victim's throat, making it difficult for her to breathe. The police arrived shortly thereafter, responding to a 911 "hang up" call. Defendant was arrested and booked into the Yolo County Jail.

Defendant was subsequently charged in case No. 06-6725/07-7034<sup>1</sup> with dissuading a witness by force and violence (Pen. Code, § 136.1, subd. (c)(1)),<sup>2</sup> removing or injuring a telephone line (*id.*, § 591); assault likely to produce great bodily injury (*id.*, § 245, subd. (a)(1)); five counts of violating a court order of protection, as defined in Family Code section 6218 (Pen. Code, § 273.6, subd (a)); and possession of a controlled substance (Health & Saf. Code, § 11377, subd. (a)). It was further alleged that defendant was previously convicted of a serious felony within the meaning of Penal Code sections 667, subdivisions (c) and (e)(1), as well as having a prior conviction under Penal Code section 667.5, subdivision (b).

On May 7, 2007, while out on his own recognizance, defendant was seen near two electrical boxes, one of which was damaged in the front, and one of which had its wires cut. Officers also located fresh damage to the front of an ATM machine. Found in possession of wire cutters and a screwdriver, defendant was arrested for attempted burglary, vandalism, and

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<sup>1</sup> Case No. 06-6725 was dismissed on December 10, 2007, and apparently refiled sometime later as case No. 07-7034. Nevertheless, defendant's notice of appeal lists case No. 06-6725, the case previously dismissed by the court, as one of the cases from which he appeals. Pursuant to the rule of liberally construing a notice of appeal in favor of its sufficiency (Cal. Rules of Court, rule 8.100(a)(2)), we construe defendant's notice as perfecting a valid appeal from the judgment in case No. 07-7034 (hereafter case No. 06-6725/07-7034).

<sup>2</sup> Undesignated statutory references are to the Penal Code.

possession of burglary tools. Defendant was again booked into the Yolo County Jail.

Detained a third time on June 5, 2007, a search of defendant revealed a glass pipe and 0.39 grams of methamphetamine. After searching defendant's residence and speaking with his roommates, the police found "a large amount of cash," which defendant claimed he won at a casino. Defendant was again booked into the Yolo County Jail.

Defendant was subsequently charged in case No. 07-3046 with grand theft (§ 484, subd. (a) & 487, subd. (a)), second degree burglary (§ 459), and felony vandalism (§ 594, subds. (a), (b)(1)). These charges arose from the robbery of another ATM machine on April 16, 2007, where defendant's fingerprints were found inside the ATM's electrical box, the rear of which had been pried open with a torch and "pry tools." In the same complaint, defendant was also charged with attempted grand theft (§§ 21a; 664, subd. (a); 487, subd. (a)), felony vandalism (§ 594, subds. (a), (b)(1)), and misdemeanor possession of burglary tools (§ 466), all allegedly committed on May 7, 2007.

Finally, defendant was further charged in case No. 07-3046 with possessing a controlled substance (Health & Saf. Code, § 11377, subd. (a)) and possession of drug paraphernalia (Health & Saf. Code, § 11364). It was alleged that these crimes were committed on June 5, 2007, while defendant was released on bail or on his own recognizance. A prior strike conviction was also alleged. (Pen. Code, §§ 667, subds. (c) & (e)(1).)

On February 1, 2008, defendant pleaded no contest to misdemeanor assault in case No. 06-6725/07-7034, and no contest to safeblowing by use of a torch in case No. 07-3046. Defendant also admitted the truth of the prior strike allegation. Defendant agreed to a stipulated term of 14 years in state prison and a concurrent term of 365 days in county jail. In exchange for his plea, the remaining charges and allegations were dismissed.

After his plea was entered, defendant filed a motion seeking to withdraw his plea. On April 25, 2008, the court heard defendant's arguments and denied his motion. The court then sentenced defendant according to his plea agreement. Defendant's later request for a certificate of probable cause was denied.

Defendant appeals from the judgment in both cases, and we appointed counsel to represent him on appeal. Counsel filed an opening brief that sets forth the facts of the case and asks us to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

## DISPOSITION

The judgment is affirmed.

\_\_\_\_\_, BUTZ, J.

We concur:

\_\_\_\_\_, SCOTLAND, P. J.

\_\_\_\_\_, HULL, J.